IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

No.10-

COURT'S ORDER WHETHER THE CASE IS OR IS NOT APROVED FOR REPORTING.
[Chapter VIII, Rule 32 (2) (b)]

(1) Civil Writ Petition No. 923 (M/B) of 2003.

S.K. Srivastava S/o D.P. Srivastava,
R/o 25/38 Khadri Mohalla, Dehradun. …….. **Petitioner.**

Versus

1. State of Uttaranchal through Secretary Transport, Uttaranchal, Dehradun.
2. Transport Commissioner, Uttaranchal, Dehradun.
3. Secretary Finance State of Uttaranchal. ……. **Respondents.**

(2) Civil Writ Petition (M/B) No. 943 of 2003

Uttaranchal Joint Taxi Car Federation
Head Office 43 Gandhi Road Railway
Station, Dehradun, Through its Secretary
Namely Sri jai Prakash Verma**.** **…… Petitioner.**

Versus

1. State of Uttaranchal through Chief Secretary, Govt. Of Uttaranchal, Dehradun.
2. State of Uttaranchal through Principal Secretary, Transport, Uttaranchal, Dehradun.
3. Transport Commissioner, Uttaranchal, Dehradun. **…… Respondents.**

AND

(3) Civil Writ Petition (M/B) No. 849 of 2005

Salimuddin S/o Shri Faiyazuddin,
R/o 133 Kahra Peer Bareilly, U.P. **AND 9 Ors.**
…….. Petitioners.

Versus

1. State of Uttaranchal through State Transport Authority, Uttaranchal, Dehradun.
2. State of U.P. through State Transport Authority U.P. Lucknow.
3. Regional Transport Officer, Kathgodam District Nainital.
4. Regional Transport Officer, Pilibhit, U.P.
5. Senior Superintendent of Police, Udham Singh Nagar.

…….. **Respondents.**

Dated on 17th July. 2006

A.F.R. (Approved for Reporting)
~~**Not Approved for Reporting.**~~

(P.C. Verma, J.)

(B.S. Verma, J.)

THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

(1) <u>Writ Petition (M/B) No.923 of 2003</u>

S.K. Srivastava S/o D.P. Srivastava,
R/o 25/38 Khadri Mohalla, Dehradun.

…… Petitioner.

Versus

1. State of Uttaranchal through Secretary Transport, Uttaranchal, Dehradun.

2. Transport Commissioner, Uttaranchal, Dehradun.

3. Secretary Finance State of Uttaranchal.

…… **Respondents.**

(2) <u>Writ Petition (M/B) No. 943 of 2003</u>

Uttaranchal Joint Taxi Car Federation
Head Office 43 Gandhi Road Railway,
Station, Dehradun, Through its Secretary
Namely Sri Jai Prakash Verma.

…… **Petitioner.**

Versus

1. State of Uttaranchal through Chief Secretary, Govt. Of Uttaranchal, Dehradun.

2. State of Uttaranchal through Principal Secretary, Transport, Uttaranchal, Dehradun.

3. Transport Commissioner, Uttaranchal, Dehradun

…… **Respondents.**

AND

(3) Writ Petition (M/B) No.849 of 2005

Salimuddin S/o Shri Faiyazuddin.
R/o 133 Kahra Peer Bareilly, U.P. **AND 9 Ors.**
..... **Petitioner.**

Versus

1. State of Uttaranchal through State Transport Authority, Uttaranchal, Dehradun.
2. State of U.P. through State Transport Authority U.P. Lucknow.
3. Regional Transport Officer, Kathgodam District Nainital.
4. Regional Transport Officer, Pilibhit, U.P.
5. Senior Superintendent of Police, Udham Singh Nagar.

..... **Respondents.**

Sri Alok Singh, Sr. Advocate assisted by Sri Tanuj Semwal, Tribhuwan Phartiyal and Sri S.K. Mandal Advocates for the petitioners.
Sri K.P. Upadhyay, learned Standing Counsel for the State.
Smt. Bina Pande, learned Standing Counsel (Govt. of U.P.).

Dated: July 17, 2006.

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

[Per Hon'ble P.C. Verma, J.]

The controversy involved in all these three writ petitions is similar and the validity of the provisions of Section 5, 6 and 12 of the Uttaranchal Motor Vehicles Taxation Reforms Act, 2003 **(hereinafter referred to as the Uttaranchal Act of 2003)** is under challenge. Therefore, all these writ petitions are being decided by one and common judgment.

2. In Writ petition No. 923 of 2003, the petitioner has sought for issue a writ, order or direction in the nature of certiorari to declare Sections 5, 6 and 12 of the Uttaranchal Motor Vehicles Taxation Reforms Act, 2003 ultra-vires, unconstitutional and to struck down the same as well as mandamus of this court directing the respondents not to realize or recover any additional tax

as per aforesaid provisions of the Uttaranchal Motor Vehicles Taxation Reforms Act, 2003.

2.1. In Writ petition No.943 of 2003, the petitioner seeks a writ, order or direction in the nature of certiorari to declare Section 6 of the Uttaranchal Motor Vehicles Taxation Reforms Act, 2003 ultra-vires, unconstitutional and to struck down the same and a similar relief of mandamus of the Court as in the first writ petition, Mentioned above.

2.2 In Writ Petition No. 849 of 2005, the petitioners seeks mandamus of this Court directing and commanding the respondents not to charge the double taxes and the buses may not be stopped on the basis of non-payment of additional taxes for the route failing in the territory of the State in addition to the relief of declaring Section 5, 6 and 12 of the Uttaranchal Motor Vehicles Taxation Reforms Act, 2003 to be ultra vires, unconstitutional and to struck down the same and as well the other relief as sought for in first two writ petitions.

3. The validity, legality and vires of Section 5, 6 and 12 of the Uttaranchal Act of 2003 have been challenged by petitioners on the grounds, inter alia, that imposition of additional tax on the Goods Carriage and Public Service Vehicles by Sections 5 and 6 of the Uttaranchal Act of 2003 is beyond the legislative competence of the respondents and same is hit by entry 56 & 57 List II of Schedule VII of Constitution of India. The imposition of additional tax is ultra vires,

unconstitutional and same is hit by Article 246, 265 and 276 of the Constitution of India and also in violation of Article 14, 19 and 302 of the Constitution of India. A temporary holder who gets permit to lift the reserve party can not be asked to pay tax for entire month, quarter or irrespective of the fact that vehicles will be on road for two and three days and irrespective of the fact that 50 seater vehicle in fact carrying less than 50 passengers. The tax as per entry 56 List II Sch. VII of the Constitution of India can be on the basis of actual passengers traveling and covering particular distance in a particular vehicle. No tax can be imposed under Entry 56 on the vehicle on the basis of seating capacity alone.

4. The grounds are based on the facts that Section 67 of Motor Vehicles Act, 1988 empowers the State Government to fix the fare and freight for stage carriages and contract carriages. Before the appointed day i.e. 09.11.2000, State of U.P., while exercising powers under Section 67 of the Motor Vehicle Act, 1988, vide notification No.711/30-4-2000-346/95 dated 10.3.2000, fixed fares for public Service Vehicles. After the appointed day State of Uttaranchal has adopted same rates of fares and no change has been made thereunder till day. Article 265 of Constitution of India says that no tax shall be levied or collected except by authority of law. However, Article 246 (3) of Constitution of India gives power to the State Government to legislate about the imposition of tax in respect of any matter enumerated in List II in the 7th Schedule of the Constitution. Schedule VII List II Entry 57 empowers the State Government to impose tax on vehicles. By exercising this power State

Government may impose tax on the vehicles to be plied within its territory. It is stated that imposition of tax as defined and prescribed under Section 4 of the Uttaranchal Act of 2003 was within the competence of State Government in view of Section 246 (3) and Entry 57 List II of Sch. VII of the Constitution However, 'additional tax' as defined in Section 2 (a) and imposed by Section 5 & 6 of the Uttaranchal Act of 2003 on the Goods and Passenger Vehicles is illegal and without any legislative competence. It is also stated that Uttaranchal Act of 2003 nowhere defined the basic feature of additional tax. Section 2 (a) only says that additional tax means tax imposed under Sections 5 & 6 in addition to tax imposed in Section 4. Entry 57 List II of Sch. VII of the Constitution of India does not give any authority to State Government to impose any additional tax. It is also stated that once under Section 4 of the Uttaranchal Act of 2003 tax is imposed on vehicles by exercising powers under Entry 57 List II Schedule VII, then there can be no valid or justified reason to impose additional tax, under Section 5 & 6 of the Uttaranchal Act of 2003 on same vehicles once again exercising power under Enter 57 List II Sch. VII of the Constitution of India.

5. The respondents contended in the counter affidavit that prior to enforcement of the Uttaranchal Act of 2003, the U.P. Motor Vehicles Taxation Act, 1997 was applicable in the State of Uttaranchal as well which has been repealed vide Section 30(1) of the Uttaranchal Act of 2003. It is also contended that the said Uttaranchal Act of 2003 and the U.P. Motor Vehicle Taxation Act, 1997 stands on similar footings and they are basically similar

enactments. The respondents also contended that from the statement of objects and reasons of the U.P. Motor Vehicles Taxation Act 1997 it is revealed that the said U.P. Act is an amalgamation of three enactments, namely, (i) The United Provinces Motor Vehicles Act, 1935, (ii) The U.P. Motor Gari (Yatrikar) Adhiniyam, 1962 and (iii) The U.P. Motor Gari (Mal Kar) Adhiniyam, 1964 which provided for the levy of Road Tax, Passenger Tax and Goods tax respectively. It appears from the statement of objects and reasons of the aforesaid U.P. Act of 1997 that the question regarding enactment of a composite law for levy of collection of all taxes on Motor Vehicles was considered by the U.P. Taxation Enquiry Committee and the U.P. Review Committee. The aforesaid U.P. Motor Vehicles Taxation Act, 1997 which is a composite law for levy and collection of all the taxes on motor vehicles, was enacted with a view to rationalize taxes on motor vehicles and streamline the administration thereof and to establish the Road Transport Accident Relief Funds so as to provide relief to the passengers or other persons suffering from casualty in the accidents in which Public Service Vehicles are involved. It is also contended that the constitutional validity and the legislative competence of State legislature regarding the aforesaid U.P. Motor Vehicles Taxation Act, 1997 was challenged before the Allahabad High Court in Writ Petition No. 280 of 1999 (H.C. Mishra and others) versus State of U.P. and others) and Writ Petition No. 169 of 1999 (P. Singh and others versus U.P. and others) and the Allahabad High Court upheld the constitutional validity of the U.P. Motor Vehicles Taxation Act, 1997. It is also contended that it is clear from the Uttaranchal Act

of 2003 as well as the Uttar Pradesh Motor Vehicles Taxation Act, 1997 that only the discrepancies regarding the rates of tax have been removed by the State of Uttaranchal by enacting the said Act. It is also contended that in the earlier U.P. Motor Vehicles Taxation Act, 1997 Section 6 provided for rates of quarterly additional tax on stage carriages for as many as 8 slabs. However, the State of Uttaranchal has amended the earlier provisions and it has been provided in the 4th Schedule under Section 6 of the Act that upto 4500 kms. quarterly distance amount of quarterly additional tax for every type of classified routes will be Rs. 154.00 per seat for plain routes and Rs. 146.00 per seat for hill routes. For each kilometer exceeding 4500 kms. Rs. 0.04 per seat per km. will be added to the amount of additional tax payable for distance of 4500 kms. Similarly, by the rates of additional tax under clause 1 (b) (i) of the 4th Schedule in the earlier U.P. Act of 1997 have been modified from Rs. 135 to Rs. 200 in the Act in question and no charge has been made in the rate under clause 1 (b) (ii). Apart from the aforesaid modification regarding the rates of additional tax the rates of additional tax has already been prescribed for vehicles which are found plying without permits and specific provision has been made in Act regarding the rates of additional tax for vehicles plying on contract permit/special permits. It may be pointed out that in the earlier U.P. Motor Vehicles Taxation Act, 1997 for passenger vehicles plying without permit additional tax was recovered at the rate of 25% more than the additional tax payable by the contract carriage vehicles. In the State of Uttaranchal it has been provided that vehicles plying without permit or plying on special

temporary permit will have to pay additional tax for one month at the rate of additional tax payable by the contract carriage vehicles. Moreover, in the earlier U.P. Motor Vehicles Taxation Act, 1997 in clause 5 of the 4th Schedule there was a huge difference between the rates of additional taxes for taxi cab and maxi cab. The petitioners have no ground available to assail the vires of the Act.

6. We have heard Sri Alok Singh, learned senior Advocate assisted by Sri Tribhuwan Phartiyal, Sri Tanuj Semwal Advocates on behalf of the petitioners, Sri K.P. Upadhyay, learned Standing Counsel for the State of Uttaranchal and Smt. Bina Pande, learned Standing Counsel for the State of U.P./respondents.

7. So far as the vires of Section 6 of Uttaranchal Act of 2003 is concerned, the same stands settled in view of the Apex Court Judgment in the case of ***"Travancore Tea Co. Ltd. V. State of Kerala (AIR, 1980, SC, 1547),*** wherein similar provision was considered and the Hon'ble Apex Court upheld the imposition of tax to be in conformity with the powers of the State Legislature under Entry 57, List II of Seventh Schedule of the Constitution. We further find support from the view taken by the Allahabad High Court in the matter referred to hereunder.

8. A similar enactment was enacted in the State of Uttar Pradesh, named as U.P. Motor Vehicles Taxation Act (Act No. 21 of 1997), the provisions of which were amended in the year 2001 and vires of Section (1-A) of

the said Act including the amendment of 2001 was challenged before the Allahabad High Court in the case of ***Smt. Vidya Gupta and others versus State of Uttar Pradesh and others reported in AIR, 2003, (Allahabad) Page 1.*** While dealing with the matter, it was observed in paragraph No.9 as under:-

> "While submissions of the learned counsel for the petitioners have already been stated in the foregoing paragraphs of this judgment, it was contended by the leaned Advocate General that the amended provision (1-A) of he Act is perfectly within the four corners of the legislative Entry-57 of List II of the Seventh Schedule of the Constitution. He drew our attention to Travancore Tea Co. Ltd. (supra) and contended that similar provision contained in kerala Motor Vehicle Taxation Act (24 of 1963) came up for consideration before the Apex Court wherein while explaining the use of the expression 'vehicle used or kept for use', the apex Court upheld the levy to be in conformity with the powers of State Legislature under Entry 57, List II of Seventh Schedule of the Constitution. It was specifically observed by the apex Court that the said provision safeguard the revenue of the State by reliving it from the burden of providing that the vehicle was used or kept for use on the public roads of the State and at the same time, the interest of bona fide owner is safeguarded by enabling him to claim and obtain a certificate of non user from the prescribed authority. He further contended that so far as this State is concerned, in the Act, in

question, safeguards are provided under S. 12 of the Act read with Rule 22 of the U.P. Motor Vehicle Taxation Rules, 1998. He also brought to our notice that validity of S.6 of the Act has already been upheld in H.C. Mishra V. State of U.P. 2000 A.L.J. 2677. Sections 5 and 6 of the Act clearly provide that every motor vehicle falling within the purview of liability to tax under S.4 is liable to pay additional tax. In support of this contention, he placed implicit reliance on the decisions in Sundaram Finance Ltd. V. Regional Transport Officer 1992(Sup) 2 SCC 436 (AIR 1992 SC 117) C.I.T. v. Piyara singh 1972 1980 (124) I.T.R. 40 (AIR 1980 SC 1271 (SC). In C.I.T. v. Piyara Singh it has been held that illegal business and income from such business is liable to tax."

9. So far as Section 4 of Uttaranchal Act of 2003 is concerned, it is clear from the language of sub-section (1) of Sec. 4, viz. "no motor vehicle other than a transport vehicle, shall be used in any public place in Uttaranchal unless a one-time tax at the rate applicable in respect of such motor vehicle, as specified in Part 'B' of the First Schedule has been paid in respect thereof' clearly shows that this is 'tax on the passenger motor vehicle.'

10. So far as the provision of Section 4(1) is concerned it is a tax on the passenger motor vehicle, while tax is on transport vehicle, which is used in any public place, therefore, sub-clause 1 and 2 of Section 4(1) both have been enacted under entry 57 aforesaid, which refers to a tax on vehicle. The word 'vehicle' has to be

construed to give a wide meaning, so as to include the passenger motor vehicle and transport vehicle, i.e. goods carrier.

11. Section 5 (1) of Uttaranchal Act of 2003 is a charging Section for levy and collection of additional tax in addition to the tax payable under Section 4, therefore, this enabling legislation is also under Article 246 read with Entry 57 List II of Seventh Schedule. The Apex Court in the case ***Travancore Tea Co. Ltd. etc. (supra)*** has upheld the imposition of additional tax under Entry 57 payable under Section 6 of the Kerala Motor Vehicles Taxation Act and relying on the said verdict, the Allahabad High Court also upheld the imposition of additional tax under the Uttar Pradesh motor Vehicles Taxation Act, 1997 as amended in 2001. The validity of imposition of additional tax under Entry 57 of List II of the Seventh Schedule of the Constitution stands upheld, by which the additional tax has been imposed in addition to the tax payable under Section 4, therefore, for the same reasoning, there is no scope to raise a ground to challenge the validity of Section 5, by which the additional to tax is to be charged on the transport vehicle in addition to tax under section 4. We are of the considered view that the ***'additional tax' is included in the meaning of tax and it not a double taxation.***

12. Learned counsel for the petitioners further submitted that the imposition of additional tax is double taxation. This argument of the learned counsel for the petitions is misconceived. Under Entry 57 of List II of the Seventh Schedule of the Constitution, it was open for

the legislatures to have imposed the 'tax' provided under Section 4 plus right of imposition of tax as provided under Sections 5 and 6 of Uttaranchal Act of 2003. What has been done is that by inserting two Sections, additional tax has been imposed, which is covered in the incidental power of the Legislation to impose 'additional tax' in addition to the tax already imposed under Article 246 read with Entry 57 of List II of the Seventh Schedule. The Apex Court in the case of ***Jai Prakash and others Vs. State of U.P. and others [(2004) 13 Supreme Court Cases, 390]*** has held inter alia in paragraph 13 wherein there is a reference of the case ***"State of Gujarat Vs. Akhil Gujarat Pravasi V.S.Mahamandal [(2004) 5 SCC, 155]*** as under:-

> "There is no material difference with the statutory provisions being construed by us. Sections 4 and 6(1) both provide for the user of vehicles, although the word used in Section 6(1) is "operate". Sub-section (1-A) of Section 6 deals with those vehicles which are "kept for use." In these circumstances, finding a parity in the nature of the tax levied, we see no reason not to follow the reasoning of this Court in ***Akhil Gujarat Pravasi Case*** and to hold that the present Act is referable to Entry 57 of List II and not Entry 56."

13. Learned counsel for the petitioners further submitted that the statement of object and reasons should be taken aid of in the construction of these provisions. It is settled law that the statement of object and reasons are taken into aid for construction of a

provision when there is any ambiguity. On the other hand, on a plain reading of the Sections, as it stands there is no ambiguity at all and the legislature was fully competent to impose the tax as well as the additional tax under Article 246 read with Entry 57 of List II of the Seventh Schedule of he Constitution of India. It is settled law that entries should be given wider and liberal meaning. Here we are also giving wider and liberal meaning to the word 'taxation on vehicle' and it includes the tax and additional tax both on the vehicles.

15. Learned counsel for the petitioners have relied upon the case of ***M.P. AIT Permit Owners Association and another Vs. State of M.P. [(2004) 1 Supreme Court Cases, 320]*** and argued that there is no Presidential assent for the present enactment enacted by the Government of Uttaranchal, know as ***"The Uttaranchal Motor Vehicles Taxation Reforms Act, 2003".*** The submission of the learned counsel for the petitioners is that the taxation under Entry 57 aforesaid is subject to the provisions of entry 35, List III, therefore, the Presidential assent is essential for want of which the Act under challenge is ultra vires. It was further contended that under Section 67(1)(d) of the Motor Vehicle Act, 1988, the tax payable by the passengers or consigners is inclusive of fares and freight. The relevant extract of the said Section is being reproduced below: -

"67. Power to State Government to control road transport. (1) A State Government, having regard to-

(a) the advantage offered to the public, trade and industry by the development of motor transport,

(b) the desirability of co-ordinating road and rail transport,

(c) the desirability of preventing uneconomic competition among holders of permits,

may from time to time, by notification in the Officer Gazette, issue directions both to the State Transport Authority and Regional Transport Authority:-

(i) regarding the fixing of fares and freights (including the maximum and minimum in respect thereof) for stage carriages, contract carriages and goods carriages:

XXX XXX XXX

16. From a plain reading of the aforesaid provisions of Section 67 it is evident that this provisions has given to the State Government powers as contained under clause (a) (b) (c) and (d) (i) for fixing the fares and freights including the maximum and minimum in respect thereof for the state carriages, contract carriages and goods carriages and for that purpose directions are to be issued, by Notification in the official gazette, to the transport authorities including the Regional Transport Authority.

17. Learned counsel for the petitioners have given main emphasis to the provisions of sub Section (2) of the said Section that fares and freight, which are fixed by the State Government on the contract carriages and goods carriage may provide that such fares or freights shall be inclusive of the tax payable by the passengers or the

consignors of the goods. We have perused the provisions of sub-section (2), which is detailed below:-

> "(2) Any direction under sub-section (1) regarding the fixing of fares and freights for stage carriages, contract carriages and goods carriages may provide that such fares or freights shall be inclusive of the tax payable by the passengers or the consignors of the goods, as the case may be, to the operators of the stage carriages, contract carriages or goods carriages under any law for the time being in force relating ***to tax on passengers and goods."***

18. The concluding lines of the said provision specifically refers to the tax on passengers and goods and this provision does not refer to Entry 56, but the learned counsel for the petitioners insisted that this power can be conferred under Entry 57 and not under Entry 56. So far as the argument of the learned counsel is concerned, if it is accepted as such, then tax payable under sub-section 2 will be co covered by Entry 56 and not under Entry 57 aforesaid. Entry 56 is independent entry, which is not subject to Entry 35 of List III of the Seventh Schedule.

19. Learned counsel for the petitioners Sri Alok Singh, Sr. Advocate, has sought to challenge the validity on the ground that it is a tax on the operator, therefore, it is tax on income and the said legislation is not competent to impose tax on income, as the income is the subject matter of List I of Schedule VII. This argument too is misconceived. A bare perusal of Sections 5 and 6 of Uttaranchal Act of 2003 clearly shows that the tax is on

the vehicle and it is not income either of the owner or any passenger or goods consignor.

20. So far as the contention of the learned counsel for the petitioners regarding assent of the President on the ground that Entry 57 is subject to the provisions of Entry 35 of List III is concerned, no repugnancy of these provisions/Sections could be pointed out by the learned counsel for the petitioner so as to attract the provisions of clause (2) of Article 254 of the Constitution of India, which requires the assent of the President on a Legislation made by the State, where on the same topic the Central Legislation exists. Section 67 of the Motor Vehicle Act 1988 does not touch the tax imposed by this enactment in any manner. We are of the view that the provision of Section 67 is entirely different altogether, which is clear from its language, therefore, since the field is unoccupied, there is no need to seek the assent of the President which the present Legislation has been enacted by the Legislators under Article 246 read with Entry 57 of List II of Seventh Schedule.

21. It is settled law as held by the Hon'ble Supreme Court in the case of State of A.P. and others Vs. Mcdowell & Co. and others [(1996) 3 Supreme Court Cases, Page 709] that "Legislative competence of State Legislature-Test to determine-Pith and substance rule-By applying that rule once a legislation exclusively falls under any of the entries in List II of Sch. VII, Parliament's competence is excluded and State's competence cannot be challenged on the ground that State's power under cl.(3) of Art. 246 is subject to Parliament's power under

cls. (1) and (2) thereof- Even if by applying that rule the State legislation falls under List III, it would be valid so far as Central legislation, if any, is no in conflict with it- Any incidental trenching would not amount to encroachment upon the field covered by parliament."

22. Learned counsel for the petitions have challenged sub-section (4) of Section 12 only of Uttaranchal Act of 2003 on the ground that if the permit holder has plied a vehicle only for one day, he might have to pay the tax for whole one month period. It does not come out from the said provision of sub-section (4) of Section 12, which has given criteria for calculating the amount of refund under sub-section (3) and it is provided that for that purpose any portion of the period being less than a calendar month, the same shall not be taken into account. Thus, the argument of the learned counsel for the petitioners on this count is misconceived, as it is a provision for the refund and not for the collection of the tax.

23. It is abundantly clear from the perusal of the Act as well as the Uttar Pradesh Motor Vehicle Taxation Act, 1997 that only the discrepancies regarding the rates of tax have been removed by the State of Uttaranchal by enacting the Uttaranchal Act of 2003. There is only difference on the rates. Fixation of rate cannot be made the basis of challenging the validity of the Act.

24. In Writ Petition No. 849 of 2005, learned counsel for the petitioner Sri S.K. Mandal submitted that the petitioner was permitted to ply his vehicle from 12-1-

2004 till date but for the reasons that the petitioners have not paid the additional tax, he was prohibited to ply his vehicle. In the facts and circumstances of the case, we provide that in case the petitioners pay the additional tax, they may be permitted to ply the vehicle under the Uttaranchal Act and relating to the payment of tax for the period for which they were not permitted to ply the vehicle, the petitioners may make a representation to the Taxation Authority, who will take a decision in accordance with law.

25. For the reasons recorded above, all these petitioners are devoid of merit and are dismissed accordingly.

(B.S. Verma, J.) **(P.C. Verma, J.)**
17.07.2006 17.07.2006

P. Singh